

0924819
BJP/hs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ANTOINE JOHNSON,

Plaintiff,

ANSWER

-against-

08 Civ. 1324 (KMK)
ECF CASE
JURY TRIAL DEMANDED

ALFRED MASTARRIGO,

Defendant.
-----X

Defendant, ALFRED MASTARRIGO, by his attorneys, LAW OFFICE OF THOMAS K. MOORE, answering the complaint, respectfully sets forth upon information and belief:

1. Denies each and every allegation contained in paragraphs numbered "1", "6", "13", "14", and "16" of the complaint.
2. Denies any knowledge or information sufficient to form a belief as to any of the allegations contained in paragraphs numbered "2", "3", "7", "8", "9" and "10" of the complaint, and refers all questions of law to this Honorable Court.
3. Admits the allegations contained in paragraphs numbered "4", "5" and "11" of the complaint.
4. Denies each and every allegation contained in paragraphs numbered "17", "18" and "19" of the complaint, and refers all questions of law to this Honorable Court.
5. Denies any knowledge or information sufficient to form a belief as to any of the allegations contained in paragraphs numbered "12" and "15" of the complaint.

**AS AND FOR A FIRST SEPARATE, AFFIRMATIVE AND COMPLETE
DEFENSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION, THESE
DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON
INFORMATION AND BELIEF:**

6. That if the plaintiff sustained any injuries as alleged, such injuries were caused by his own fault and negligence, and/or culpable conduct, wholly or partially.

AS AND FOR A SECOND SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE TO PLAINTIFF’S ALLEGED CAUSE OF ACTION, THESE DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON INFORMATION AND BELIEF:

7. If plaintiff recovers any damages by reason of the alleged negligence of these answering defendants, said damages must be reduced by the total amount of all funds received by plaintiff for all collateral sources pursuant to CPLR section 4545(c).

AS AND FOR A THIRD SEPARATE, AFFIRMATIVE AND COMPLETE DEFENSE TO PLAINTIFF’S ALLEGED CAUSE OF ACTION, THESE DEFENDANTS RESPECTFULLY SET FORTH AND ALLEGE UPON INFORMATION AND BELIEF:

8. The plaintiff failed and neglected to properly utilize, adjust and/or fasten the automobile safety and/or seat belts which were available to her, thereby increasing her injuries and/or damages.

WHEREFORE, each answering defendant demands judgment:

- (1) Dismissing the complaint, and
- (2) For costs and disbursements against adverse parties.

Dated: White Plains, New York
July 15, 2008

LAW OFFICE OF THOMAS K. MOORE

By: _____ s/
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